

## § 1608.6

### § 1608.6 Prohibitions applicable to attorneys and to staff attorneys.

While engaged in legal assistance activities supported under the act, no attorney shall engage in

- (a) Any political activity,
- (b) Any activity to provide voters with transportation to the polls, or to provide similar assistance in connection with an election, or
- (c) Any voter registration activity.

### § 1608.7 Attorney-client relationship.

Nothing in this part is intended to prohibit an attorney or staff attorney from providing any form of legal assistance to an eligible client, or to interfere with the fulfillment of any attorney's professional responsibilities to a client.

### § 1608.8 Enforcement.

This part shall be enforced according to the procedures set forth in §1612.5.

## PART 1609—FEE-GENERATING CASES

Sec.

1609.1 Purpose.

1609.2 Definition.

1609.3 General requirements.

1609.4 Recipient policies, procedures and recordkeeping.

AUTHORITY: 42 U.S.C. 2996f(b)(1) and 2996e(c)(6).

SOURCE: 62 FR 19399, Apr. 21, 1997, unless otherwise noted.

### § 1609.1 Purpose.

This part is designed:

- (a) To ensure that recipients do not use scarce legal services resources when private attorneys are available to provide effective representation and
- (b) To assist eligible clients to obtain appropriate and effective legal assistance.

### § 1609.2 Definition.

(a) *Fee-generating case* means any case or matter which, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably may be expected to result in a fee for legal services from an award to a client, from public funds or from the opposing party.

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(b) *Fee-generating case* does not include a case where:

(1) A court appoints a recipient or an employee of a recipient to provide representation in a case pursuant to a statute or a court rule or practice equally applicable to all attorneys in the jurisdiction, or

(2) A recipient undertakes representation under a contract with a government agency or other entity.

### § 1609.3 General requirements.

(a) Except as provided in paragraph (b) of this section, a recipient may not provide legal assistance in a fee-generating case unless:

(1) The case has been rejected by the local lawyer referral service, or by two private attorneys; or

(2) Neither the referral service nor two private attorneys will consider the case without payment of a consultation fee.

(b) A recipient may provide legal assistance in a fee-generating case without first attempting to refer the case pursuant to paragraph (a) of this section only when:

(1) An eligible client is seeking benefits under Subchapter II of the Social Security Act, 42 U.S.C. 401 *et seq.*, as amended, Federal Old Age, Survivors, and Disability Insurance Benefits; or Subchapter XVI of the Social Security Act, 42 U.S.C. 1381 *et seq.*, as amended, Supplemental Security Income for Aged, Blind, and Disabled;

(2) The recipient, after consultation with appropriate representatives of the private bar, has determined that the type of case is one that private attorneys in the area served by the recipient ordinarily do not accept, or do not accept without prepayment of a fee; or

(3) The director of the recipient, or the director's designee, has determined that referral of the case to the private bar is not possible because:

(i) Documented attempts to refer similar cases in the past generally have been futile;

(ii) Emergency circumstances compel immediate action before referral can be made, but the client is advised that, if appropriate, and consistent with professional responsibility, referral will be attempted at a later time; or